

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 36705 of 2019

Date of Decision: 19.05.2023

Baljinder Singh

... Petitioner(s)

Versus

State of Punjab and Others.

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. H.S.Dhindsa, Advocate
for the petitioner(s).

Ms. Shivani Sharma, Deputy Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. The learned State counsel has filed reply on behalf of the respondents by way of an affidavit of the General Manager, Punjab Roadways, Nangal. The same is taken on record. A copy thereof has been supplied to the learned counsel representing the petitioner.

2. While praying for the issuance of the writ of certiorari, the petitioner prays for setting aside the orders passed on 03.10.2018 and 18/22.07.2019, respectively.

3. In substance, the petitioner is aggrieved of the orders by which he has been dismissed from service on account of his conviction in the case involving the motor vehicular accident. In order to grasp the core issue, the relevant facts, in brief, are required to be noticed.

3. After having been appointed as a Driver in the Punjab Roadways, the petitioner started driving the State transport buses. On

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03.06.2000, the bus driven by him had met with an accident resulting into the death of a motorcyclist. In the criminal trial, the petitioner was convicted and sentenced for a period of one year rigorous imprisonment vide judgment dated 21.04.2008. The appeal filed by the petitioner was dismissed on 03.06.2010, whereas, the criminal revision filed in the High Court is stated to be pending. Initially, the petitioner was dismissed from the service on 31.12.2010, however, in the Civil Writ Petition No. 16005 of 2012 filed by him, the High Court set aside the order while directing his reinstatement into service. On 01.12.2014, the Director, State Transport, Punjab, took a decision to keep the departmental inquiry pending against the petitioner on account of the pendency of the criminal revision in the high Court. However, on 03.10.2018, the petitioner was dismissed from service on the ground that all the charges levelled against him in the charge sheet have been proved. In the charge sheet, the only allegation against the petitioner is that he was driving the vehicle rashly and negligently.

4. The appeal filed by the petitioner was also dismissed on 18.07.2019. Challenging the aforesaid orders, the present writ petition is being filed. While filing the reply, the respondents have contested the claim of the petitioner on the basis of the Division Bench judgment in ***Rishi Dev v. State of Haryana and Others 2006(2)2 SLR 295.***

5. It is not disputed before the Court that except the petitioner's involvement in the motor vehicular accident on 03.06.2000, he has rendered more than 19 years of unblemished service. This is the only charge against him. In this case, even after the occurrence of accident on 03.06.2000, the petitioner continued to drive the bus for the next 18 years. During all this

while, there was no other complaint against the petitioner.

6. The learned State counsel admits that the petitioner has rendered more than 15 years of service, therefore, he is eligible for premature/compulsory retirement with the pensionary benefits. In fact, this identical issue has already been deliberated in ***Darshan Singh v. State of Punjab and Others (Civil Writ Petition No. 627 of 2017, decided on 14.03.2023)***. Para 9 to 11 of the said judgment read as under:-

“9. Road accidents are, often, the result of an error of judgment or mechanical failures. They can also occur on account of the fault of the other vehicle. In such cases, it would not be justified or rational to hold that the driver is guilty of an offence involving moral turpitude in the absence of mens-rea, however, at the same time, the court is required to take into consideration the fact that the driver, if reinstated in service, will again drive heavy duty vehicles which can endanger public safety.

10. After examining and harmonizing these conflicting interests, a learned Single Judge in Jarnail Singh vs. State of Punjab and others (Civil Writ Petition No.2914 of 2009, decided on 29.08.2011), has held that in such cases, the order of dismissal is required to be modified and converted into the order of compulsory/pre-mature retirement from service with entitlement to the retrial/pensionary benefits.

11. This court while respectfully agreeing with the aforesaid view, modifies the order of dismissal of the petitioner from

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service and orders its conversion into an order of compulsory/pre-mature retirement from service with entitlement to retrial benefits with effect from the date of the dismissal order i.e. 12.04.2016.”

7. Keeping in view the aforesaid facts, this Court has come to a conclusion that the order of the petitioner’s dismissal from service is required to be modified and the said order is converted into an order of compulsory/premature retirement from the service with the entitlement of the retiral benefits with effect from the date of his dismissal from the service i.e. 03.10.2018. The respondents are directed to release the retiral benefits accruing to the petitioner in view of the modification.

8. With the modifications made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

May 19, 2023
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No